

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

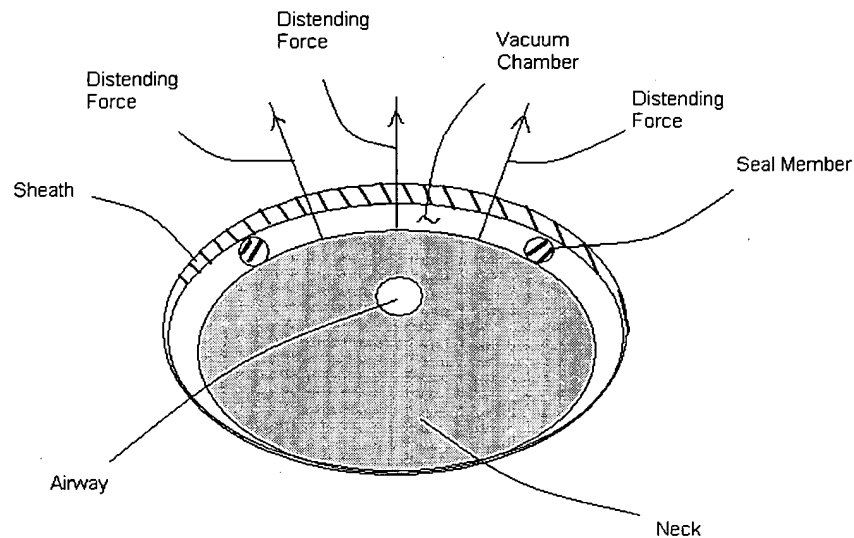
Upon entry of this Amendment, claims 1-3 and 7-9 will be pending in the present application. Claims 4-6 have been cancelled.

Applicant notes with appreciation the Examiner's indication that claims 1-3 are allowed.

Claims 4-9 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicant respectfully traverses this rejection for the reasons presented below.

The present invention is a method of treating upper airway disorders, such as obstructive sleep apnea (OSA), snoring, and upper airway resistance syndrome (UARS), by applying a distending force on the patient's neck tissue. In one embodiment, which is illustrated below and which corresponds to the apparatus shown in FIG. 4 of the present application being worn on the neck of a patient, the distending force is applied on the surface of the patient by creating a vacuum over the surface of the patient. The following figures is a cross-sectional view of the neck with the apparatus of FIG. 4 being worn by the patient.

Applying a distending force on the neck is accomplished by providing a sheath over the patient. A seal on the sheath seals an area over the patient to define a vacuum chamber in which the vacuum is drawn. Applying a vacuum in this chamber imparts a distending force on the patient's neck tissue. This distending force, which is illustrated by the three arrows in the figure provided below, distends (urges open) the patient's airway. Applicant submits that one of ordinary skill in the art would understand that using this apparatus will result in a distending force being applied to the patient in a direction that is generally perpendicular to the surface of the patient. This is inherent as a result of the physics associated with applying a vacuum over a surface of a patient.



Nevertheless, in an attempt to better clarify the invention consistent with the description given in the specification, independent claim 7 has been amended to clarify that the distending force applied to the surface of the patient's neck is applied in a direction from an interior to an exterior of the patient, such that the patient's neck tissue is moved generally away from the interior of the patient. Applicant submits this description of the nature of the distending force is consistent with the exemplary technique described in the present application for creating the distending force. That is, one skilled in the art would understand, upon reviewing the present application, that the description of the technique for imparting a distending force would result in a distending force being applied on the surface of the patient in this direction (from an interior to an exterior of the patient).

For the reasons presented above, applicant respectfully submits that the application, as filed, fully supports claims 7-9, as amended herein, and, thus, satisfies the written description requirement of 35 U.S.C. § 112, first paragraph. Claims 4-6 have been cancelled thereby rendering their rejection moot. Accordingly, applicant respectfully requests that the above rejection of claims 4-9 be withdrawn.

SANDERS -- Appln. No.: 09/473,196

Claim 7 is object to as being a substantial duplicate of claim 4. This objection has been rendered moot due to the cancellation of claim 4 from the present application. Accordingly, applicant respectfully requests that the objection to claim 7 be withdrawn.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

By Michael W. Haas

Michael W. Haas

Reg. No.: 35,174

Tel. No.: (724) 387-5026

Fax No.: (724) 387-5021

RESPIRONICS, INC.
1010 Murry Ridge Lane
Murrysville, PA 15668-8525